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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,430	01/25/2002	Rafael Rangel-Aldao	1390.0070006	7557

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EXAMINER

CORBIN, ARTHUR L

ART UNIT PAPER NUMBER

1761

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,430

Applicant(s)

RANGEL-ALDAO ET AL.

Examiner

Arthur L. Corbin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06-29-06, 07-14-06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-52 and 54 is/are pending in the application.
- 4a) Of the above claim(s) 47, 48, 50/47, 50/48, 52, 54/47, 54/48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46, 49, 50/46, 50/49, 51, 54/46, 54/49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 47, 48, 50/47, 50/48, 52, 54/47 and 54/48 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on April 21, 2004.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 46, 49, 50/46, 50/49, 51, 54/46 and 54/49 are rejected under 35 U.S.C. 102(a) as being anticipated by Bravo et al (EP 0 773 285 A2) as set forth on pages 2-3 of the December 29, 2005 Office action.

5. Claims 46, 49, 50/46/ 50/49, 51, 54/46 and 54/49 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Cerami et al in view of applicant's prior art admission on page 8, lines 22-28 of the spec. and either Geiger et al or Weetall as set forth on pages 3-5 of said Office action.

6. Applicant's arguments filed June 29, 2006 and the 131 declaration filed July 14, 2006 have been fully considered but they are not persuasive. The EP patent is properly

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available as prior art under 35 USC 102(a) since it has a different inventive entity than the instant application, which, according to applicant's original declaration, includes an inventor not listed on the EP patent, viz. Ivan Galindo-Castro. Additionally, the 131 declaration is ineffective to overcome the EP patent since it fails to provide diligence from the date of conception to the date of reduction to practice and since it fails to include factual evidence to support declarant's statement in paragraph no. 6 of said declaration, e.g. lab notes.

Applicant's comments with regard to the 35 USC 103 (a) rejection are without merit. Although malt beverages and beer are not solid, as applicant points out, this does not detract from the fact that they have food value, e.g. in providing nutrients as well as in inhibiting low density lipids in an individual's bloodstream. Thus, the foodstuff disclosed in Cerami et al does not preclude beer or malt beverages. Whereas neither Geiger et al or Weetall discloses the use of an agent on a solid support that inhibits, binds or inactivates dicarbonyl Maillard reaction intermediates, as applicant contends, both references do teach the concept of treating alcoholic beverages with a change inhibiting chemical agent on a support and thereby provide motivation for immobilizing the aminoguanidine of Cerami et al on a support before it contacts the foodstuff therein to prevent formation of undesirable end products formed as a result of Maillard reactions, which foodstuff obviously could include beer according to applicant's prior art admission.

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Applicant's belief, that the use of applicant's disclosure is improper, is incorrect since applicant's admission of what is known in the art (page 8 of spec.) constitutes prior art.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur L. Corbin whose telephone number is (571) 272-1399. The examiner can normally be reached on Monday-Friday from 10:30 AM to 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton I. Cano, can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right.

Arthur L Corbin
Primary Examiner
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9-25-06